



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 14
1222 SPRUCE ST
RM 8.302
SAINT LOUIS, MO 63103-2829

Agency Website: www.nlrb.gov
Telephone: (314)539-7770
Fax: (314)539-7794

Agent's Direct Dial: (314)449-7481

October 18, 2018

(b) (6), (b) (7)(C)

Re: St. Louis Cardinals, LLC
(b) (6), (b) (7)(C)

Dear (b) (6), (b) (7)(C):

Pursuant to our conversation, enclosed is a Charge Against Employer form. If you wish to file this charge with us, please do the following:

- ✓ Make any necessary corrections on the form
- ✓ Fill in any incomplete spaces
- ✓ Sign and date the form where indicated at the bottom
- ✓ Return the form to the above address or fax number

You may also wish to keep a copy of the charge for yourself. Once we receive a signed charge from you, we will give it a case number and assign a Board agent to investigate the case. We will then send you a letter telling you the case number and the name of the investigator.

Please remember that to be timely, your charge must be filed **and served on the charged party** within six months of the alleged unlawful actions. We normally send a copy of the charge to the charged party, but if you are running close to the 6-month deadline, be advised that it is your responsibility to see that the Employer receives a copy of the charge within the 6-month period. Feel free to contact me if you have any questions or need further assistance. If I am not in, please ask to speak to the Information Officer.

Very truly yours,

BRADLEY A. FINK
Field Attorney

Enclosure

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
CHARGE AGAINST EMPLOYER

INSTRUCTIONS:

DO NOT WRITE IN THIS SPACE	
Case	Date Filed
14 CA-234361	1/17/19

File an original of this charge with NLRB Regional Director in which the alleged unfair labor practice occurred or is occurring.

1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT

a. Name of Employer St. Louis Cardinals, LLC		b. Tel. No. (314)345-9600
		c. Cell No.
d. Address (street, city, state ZIP code) 700 Clark Ave, Saint Louis, MO 63102-1727	e. Employer Representative Mike Whittle, ESQ. General Counsel	f. Fax No.
		g. e-Mail
		h. Dispute Location (City and State) Saint Louis, MO
i. Type of Establishment (factory, nursing home, hotel) Baseball Stadium	j. Principal Product or Service Professional Baseball	k. Number of workers at dispute location 100

1. The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1), (3), and (4) of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices are unfair practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.

2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices)

Since about (b) (6), (b) (7)(C) 2018, the Employer discriminated against employee (b) (6), (b) (7)(C) by not recalling (b) (6), (b) (7)(C) from layoff in order to discourage union activities or membership.

Since about (b) (6), (b) (7)(C) 2018, the Employer discriminated against employee (b) (6), (b) (7)(C) by failing to recall (b) (6), (b) (7)(C) from layoff because the employee provided evidence and/or gave testimony to the Board.

3. Full name of party filing charge (if labor organization, give full name, including local name and number)

(b) (6), (b) (7)(C)

4a. Address (street and number, city, state, and ZIP code)

(b) (6), (b) (7)(C)

4b. Tel. No.

(b) (6), (b) (7)(C)

4c. Cell No.**4d. Fax No.****4e. e-Mail**

(b) (6), (b) (7)(C)

5. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filed in when charge is filed by a labor organization)**6. DECLARATION**

I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief.

Tel. No.

(b) (6), (b) (7)(C)

Office, if any, Cell No.**Fax No.****e-Mail**

(b) (6), (b) (7)(C)

WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)**PRIVACY ACT STATEMENT**

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information will cause the NLRB to decline to invoke its processes.

(b) (6), (b) (7)(C)

RECEIVED
NLRB REGION 14
JAN 17 2019

CHARGE ASSIGNMENT SHEET (EMPLOYER)Case No.:
14-CA- 234361

CASE NAME:

ST. LOUIS CARDINALS, LLC

DATE FILED:

1/17/19

CATEGORY:

☐ I☐ II☒ IIIPotential 10(j)
NO

8(a)(2)—(name of assisted union)

Number of 8(a)(3)'s
1

No. of Employees (if not on charge)

IO charge? Yes ☒ No ☐

Dispute City: ST. LOUIS

Dispute State: MO

COMMENTS:

Bargaining Status:☐ Existing Contract☐ None☐ Organizational Campaign☐ Seeking Initial Contract☐ Seeking Successor Contract

SUPERVISOR:

LLF

AGENT:

BAF

8(a)(1)

- ☐ Coercive Actions (surveillance, etc.)
- ☐ Coercive Rules
- ☐ Coercive Statements (threats, promises of benefits, etc.)
- ☐ Concerted Activities (retaliation, discharge, discipline)
- ☐ Denial of Access
- ☐ Discharge of supervisor (*Parker-Robb Chevrolet*)
- ☐ Interrogation (including polling)
- ☐ Lawsuits
- ☐ Weingarten

8(a)(4)

- ☐ Changes in Terms and Conditions of Employment
- ☒ Discharge (including layoff and refusal to hire)
- ☐ Discipline
- ☐ Refusal to Reinstatement Employee/Striker
- ☐ Shutdown or Relocate/ Subcontract Unit Work

8(a)(5)

- ☐ Alter Ego
- ☐ Failure to Sign Agreement
- ☐ Refusal to Bargain/Bad Faith Bargaining
(including surface bargaining/direct dealing)
- ☐ Refusal to Furnish Information
- ☐ Refusal to Hire Majority
- ☐ Refusal to Recognize
- ☐ Repudiation/Modification of Contract
(Section 8(d)/unilateral changes)
- ☐ Shutdown or Relocate or Subcontract Work
(e.g. *First National Maintenance*)

8(a)(2)

- ☐ Assistance
- ☐ Domination
- ☐ Unlawful Recognition

8(a)(3)

- ☐ Changes in Terms and Conditions of Employment
- ☒ Discharge (including layoff and refusal to hire (not salting))
- ☐ Discipline
- ☐ Lockout
- ☐ Refusal to Consider/Hire Applicant (salting only)
- ☐ Refusal to Reinstatement ee/Striker (e.g. *Laidlaw*)
- ☐ Retaliatory Lawsuit
- ☐ Shutdown or Relocate/ Subcontract Unit Work
- ☐ Union Security Related Actions

8(e)

- ☐ All Allegations against a Labor Organization
- ☐ All Allegations against an Employer



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January 22, 2019

Mike Whittle, ESQ., General Counsel
St. Louis Cardinals, LLC
700 Clark Ave
Saint Louis, MO 63102-1727

Re: St. Louis Cardinals, LLC
Case 14-CA-234361

Dear Mr. Whittle:

Enclosed is a copy of a charge that has been filed in this case. This letter tells you how to contact the Board agent who will be investigating the charge, explains your right to be represented, discusses presenting your evidence, and provides a brief explanation of our procedures, including how to submit documents to the NLRB.

Investigator: This charge is being investigated by Field Attorney BRADLEY A. FINK whose telephone number is (314)449-7481. If this Board agent is not available, you may contact Supervisory Attorney LUCINDA L. FLYNN whose telephone number is (314)449-7482.

Right to Representation: You have the right to be represented by an attorney or other representative in any proceeding before us. If you choose to be represented, your representative must notify us in writing of this fact as soon as possible by completing *Form NLRB-4701, Notice of Appearance*. This form is available on our website, www.nlrb.gov, or from an NLRB office upon your request.

If you are contacted by someone about representing you in this case, please be assured that no organization or person seeking your business has any "inside knowledge" or favored relationship with the National Labor Relations Board. Their knowledge regarding this proceeding was only obtained through access to information that must be made available to any member of the public under the Freedom of Information Act.

Presentation of Your Evidence: We seek prompt resolutions of labor disputes. Therefore, I urge you or your representative to submit a complete written account of the facts and a statement of your position with respect to the allegations set forth in the charge as soon as possible. If the Board agent later asks for more evidence, I strongly urge you or your representative to cooperate fully by promptly presenting all evidence relevant to the investigation. In this way, the case can be fully investigated more quickly.

Full and complete cooperation includes providing witnesses to give sworn affidavits to a Board agent, and providing all relevant documentary evidence requested by the Board agent. Sending us your written account of the facts and a statement of your position is not

enough to be considered full and complete cooperation. A refusal to fully cooperate during the investigation might cause a case to be litigated unnecessarily.

In addition, either you or your representative must complete the enclosed Commerce Questionnaire to enable us to determine whether the NLRB has jurisdiction over this dispute. If you recently submitted this information in another case, or if you need assistance completing the form, please contact the Board agent.

We will not honor any request to place limitations on our use of position statements or evidence beyond those prescribed by the Freedom of Information Act and the Federal Records Act. Thus, we will not honor any claim of confidentiality except as provided by Exemption 4 of FOIA, 5 U.S.C. Sec. 552(b)(4), and any material you submit may be introduced as evidence at any hearing before an administrative law judge. We are also required by the Federal Records Act to keep copies of documents gathered in our investigation for some years after a case closes. Further, the Freedom of Information Act may require that we disclose such records in closed cases upon request, unless there is an applicable exemption. Examples of those exemptions are those that protect confidential financial information or personal privacy interests.

Preservation of all Potential Evidence: Please be mindful of your obligation to preserve all relevant documents and electronically stored information (ESI) in this case, and to take all steps necessary to avoid the inadvertent loss of information in your possession, custody or control. Relevant information includes, but is not limited to, paper documents and all ESI (e.g. SMS text messages, electronic documents, emails, and any data created by proprietary software tools) related to the above-captioned case.

Prohibition on Recording Affidavit Interviews: It is the policy of the General Counsel to prohibit affiants from recording the interview conducted by Board agents when subscribing Agency affidavits. Such recordings may impede the Agency's ability to safeguard the confidentiality of the affidavit itself, protect the privacy of the affiant and potentially compromise the integrity of the Region's investigation.

Procedures: We strongly urge everyone to submit all documents and other materials by E-Filing (not e-mailing) through our website, www.nlr.gov. However, the Agency will continue to accept timely filed paper documents. Please include the case name and number indicated above on all your correspondence regarding the charge. The Agency requests all evidence submitted electronically to be in the form it is normally used and maintained in the course of business (i.e., native format). Where evidence submitted electronically is not in native format, it should be submitted in a manner that retains the essential functionality of the native format (i.e., in a machine-readable and searchable electronic format). If you have questions about the submission of evidence or expect to deliver a large quantity of electronic records, please promptly contact the Board agent investigating the charge.

Information about the Agency, the procedures we follow in unfair labor practice cases and our customer service standards is available on our website, www.nlr.gov or from an NLRB office upon your request. *NLRB Form 4541, Investigative Procedures* offers information that is helpful to parties involved in an investigation of an unfair labor practice charge.

January 22, 2019

We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,

A handwritten signature in black ink, appearing to read "Leonard J. Perez", with a large, stylized flourish at the end.

LEONARD J. PEREZ
Regional Director

Enclosures:

1. Copy of Charge
2. Commerce Questionnaire

QUESTIONNAIRE ON COMMERCE INFORMATION

Please read carefully, answer all applicable items, and return to the NLRB Office. If additional space is required, please add a page and identify item number.

CASE NAME

St. Louis Cardinals, LLC

CASE NUMBER

14-CA-234361

1. EXACT LEGAL TITLE OF ENTITY (As filed with State and/or stated in legal documents forming entity)**2. TYPE OF ENTITY**☐ CORPORATION ☐ LLC ☐ LLP ☐ PARTNERSHIP ☐ SOLE PROPRIETORSHIP ☐ OTHER (Specify)**3. IF A CORPORATION or LLC**A. STATE OF INCORPORATION
OR FORMATION

B. NAME, ADDRESS, AND RELATIONSHIP (e.g. parent, subsidiary) OF ALL RELATED ENTITIES

4. IF AN LLC OR ANY TYPE OF PARTNERSHIP, FULL NAME AND ADDRESS OF ALL MEMBERS OR PARTNERS**5. IF A SOLE PROPRIETORSHIP, FULL NAME AND ADDRESS OF PROPRIETOR****6. BRIEFLY DESCRIBE THE NATURE OF YOUR OPERATIONS (Products handled or manufactured, or nature of services performed).****7. A. PRINCIPAL LOCATION:****B. BRANCH LOCATIONS:****8. NUMBER OF PEOPLE PRESENTLY EMPLOYED**

A. Total:

B. At the address involved in this matter:

9. DURING THE MOST RECENT (Check appropriate box): ☐ CALENDAR YR ☐ 12 MONTHS or ☐ FISCAL YR (FY dates)**YES NO**A. Did you **provide services** valued in excess of \$50,000 directly to customers outside your State? If no, indicate actual value.
\$B. If you answered no to 9A, did you **provide services** valued in excess of \$50,000 to customers in your State who purchased goods valued in excess of \$50,000 from directly outside your State? If no, indicate the value of any such services you provided.
\$C. If you answered no to 9A and 9B, did you **provide services** valued in excess of \$50,000 to public utilities, transit systems, newspapers, health care institutions, broadcasting stations, commercial buildings, educational institutions, or retail concerns? If less than \$50,000, indicate amount. \$D. Did you **sell goods** valued in excess of \$50,000 directly to customers located outside your State? If less than \$50,000, indicate amount. \$E. If you answered no to 9D, did you **sell goods** valued in excess of \$50,000 directly to customers located inside your State who purchased other goods valued in excess of \$50,000 from directly outside your State? If less than \$50,000, indicate amount.
\$F. Did you **purchase and receive goods** valued in excess of \$50,000 from directly outside your State? If less than \$50,000, indicate amount. \$G. Did you **purchase and receive goods** valued in excess of \$50,000 from enterprises who received the goods directly from points outside your State? If less than \$50,000, indicate amount. \$H. **Gross Revenues** from all sales or performance of services (Check the largest amount)
☐ \$100,000 ☐ \$250,000 ☐ \$500,000 ☐ \$1,000,000 or more If less than \$100,000, indicate amount.I. Did you **begin operations within the last 12 months**? If yes, specify date: _____**10. ARE YOU A MEMBER OF AN ASSOCIATION OR OTHER EMPLOYER GROUP THAT ENGAGES IN COLLECTIVE BARGAINING?**☐ YES ☐ NO (If yes, name and address of association or group).**11. REPRESENTATIVE BEST QUALIFIED TO GIVE FURTHER INFORMATION ABOUT YOUR OPERATIONS**

NAME

TITLE

E-MAIL ADDRESS

TEL. NUMBER

12. AUTHORIZED REPRESENTATIVE COMPLETING THIS QUESTIONNAIRE

NAME AND TITLE (Type or Print)

SIGNATURE

E-MAIL ADDRESS

DATE

PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation and/or unfair labor practice proceedings and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary. However, failure to supply the information may cause the NLRB to refuse to process any further a representation or unfair labor practice case, or may cause the NLRB to issue you a subpoena and seek enforcement of the subpoena in federal court.

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

ST. LOUIS CARDINALS, LLC

Charged Party

and

(b) (6), (b) (7)(C)

Charging Party

Case 14-CA-234361

AFFIDAVIT OF SERVICE OF CHARGE AGAINST EMPLOYER

I, the undersigned employee of the National Labor Relations Board, state under oath that on January 22, 2019, I served the above-entitled document(s) by post-paid regular mail upon the following persons, addressed to them at the following addresses:

Mike Whittle, ESQ., General Counsel
St. Louis Cardinals, LLC
700 Clark Ave
Saint Louis, MO 63102-1727

January 22, 2019

Date

Dannie Abbott, Designated Agent of
NLRB

Name

Signature



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January 22, 2019

(b) (6), (b) (7)(C)

Re: St. Louis Cardinals, LLC
Case 14-CA-234361

Dear (b) (6), (b) (7)(C):

The charge that you filed in this case on January 17, 2019 has been docketed as case number 14-CA-234361. This letter tells you how to contact the Board agent who will be investigating the charge, explains your right to be represented, discusses presenting your evidence, and provides a brief explanation of our procedures, including how to submit documents to the NLRB.

Investigator: This charge is being investigated by Field Attorney BRADLEY A. FINK whose telephone number is (314)449-7481. If this Board agent is not available, you may contact Supervisory Attorney LUCINDA L. FLYNN whose telephone number is (314)449-7482.

Right to Representation: You have the right to be represented by an attorney or other representative in any proceeding before us. If you choose to be represented, your representative must notify us in writing of this fact as soon as possible by completing *Form NLRB-4701, Notice of Appearance*. This form is available on our website, www.nlrb.gov, or from an NLRB office upon your request.

If you are contacted by someone about representing you in this case, please be assured that no organization or person seeking your business has any "inside knowledge" or favored relationship with the National Labor Relations Board. Their knowledge regarding this proceeding was only obtained through access to information that must be made available to any member of the public under the Freedom of Information Act.

Presentation of Your Evidence: As the party who filed the charge in this case, it is your responsibility to meet with the Board agent to provide a sworn affidavit, or provide other witnesses to provide sworn affidavits, and to provide relevant documents within your possession. Because we seek to resolve labor disputes promptly, you should be ready to promptly present your affidavit(s) and other evidence. If you have not yet scheduled a date and time for the Board agent to take your affidavit, please contact the Board agent to schedule the affidavit(s). If you fail to cooperate in promptly presenting your evidence, your charge may be dismissed without investigation.

Preservation of all Potential Evidence: Please be mindful of your obligation to preserve all relevant documents and electronically stored information (ESI) in this case, and to

take all steps necessary to avoid the inadvertent loss of information in your possession, custody or control. Relevant information includes, but is not limited to, paper documents and all ESI (e.g. SMS text messages, electronic documents, emails, and any data created by proprietary software tools) related to the above-captioned case.

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We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Qualifying for Backpay: We are just beginning to investigate your charge and no decision has been made regarding the merits of your case. However, it is important that employees who might be entitled to backpay because of loss of employment understand their obligation to look for work in order to qualify for backpay if your case has merit. Accordingly, we urge you to promptly provide the Board agent with the names and addresses of all employees who might be entitled to backpay as a result of the charge you filed.

If backpay is due to an employee, the Board requires that the employee offset the backpay by promptly beginning to look for another job in the same or similar line of work. The Board has held that a reasonably diligent employee should begin searching for interim work within 2 weeks after the employee's termination or layoff or a refusal to hire the employee. If an employee cannot establish that he or she actively tried to mitigate his or her losses, the amount of money owed to the employee might be reduced.

Employees who might be owed backpay should keep careful records of when and where they have sought employment and of job search expenses such as mileage, parking, and copying

resumes. Specifically, they should keep a record of each time they attempt to find work, including the date, name of the company, name of person with whom they spoke, the position sought, and the response received.

Very truly yours,

A handwritten signature in black ink, appearing to read "Leonard J. Perez", with a large, stylized flourish at the end.

LEONARD J. PEREZ
Regional Director

From: [Kuntz, Harrison C.](#)
To: [Fink, Bradley A.](#)
Subject: Re: Emailing: CHG.14-CA-234361.Charge Against Employer - CA case.docx (1)
Date: Tuesday, January 22, 2019 4:42:15 PM

Thanks Brad. We'll find out the current status in the meantime. I suspect they haven't yet made final decisions on the 2019 crew, but will get it nailed down in any event.

Hope all is well,
Harrison

> On Jan 22, 2019, at 1:58 PM, Fink, Bradley A. <Bradley.Fink@nlrb.gov> wrote:

>

> I wanted to let you know that this charge was filed by (b) (6), (b) (7)(C). As background, it appears that (b) (6), (b) (7)(C) was not included in the ALJ's make-whole remedy. The basis of this charge is that (b) (6), (b) (7)(C) believes (b) (6) should have been recalled to the painting department in the fall of 2018, after the previous ULP was litigated. I will contact you with a request for evidence letter when that is ready.

> <CHG.14-CA-234361.Charge Against Employer - CA case.docx (1).PDF>

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Agent's Direct Dial: (314)449-7481

January 30, 2019

Harrison C. Kuntz, Attorney
Ogletree Deakins Nash Smoak & Stewart, PC
7700 Bonhomme Ave., Ste. 650
St. Louis, MO 63105-0030

Re: St. Louis Cardinals, LLC
Case 14-CA-234361

Dear Mr. Kuntz:

I am writing this letter to advise you that it is now necessary for me to take evidence from you regarding the allegations raised in the investigation of the above-referenced matter. Set forth below are the allegations and issues on which your evidence is needed, a request to take affidavits, a request for documentary evidence, and the date for providing your evidence.

Allegations: The allegations for which I am seeking your evidence are as follows. The Charging Party, (b) (6), (b) (7)(C), contends that (b) (6) had a history of seasonal work for the St. Louis Cardinals. (b) (6) acknowledges that (b) (6) failed to return a phone call to recall (b) (6) to work in February 2018. However, (b) (6) asserts that (b) (6) should have been recalled to work in the fall of 2018 and again in February 2019. The Charging Party contends that (b) (6) was not recalled during these periods due to animus against (b) (6), (b) (7)(C) based on an internal union charge (b) (6), (b) (7)(C) filed against (b) (6), (b) (7)(C) in December 2017 as well as a National Labor Relations Board charge (b) (6) filed against the St. Louis Cardinals in January 2018.

Board Affidavits: I am requesting to take affidavits from (b) (6), (b) (7)(C) and any other individuals you believe have information relevant to the investigation of this matter. Please be advised that the failure to present representatives who would appear to have information relevant to the investigation of this matter, for the purposes of my taking sworn statements from them, constitutes less than complete cooperation in the investigation of the charge. Please contact me by **February 13, 2019**, to schedule these affidavits.

Documents: Please provide the following documents, along with any and all other evidence you deem to be relevant to the case:

1. A list of seasonal painting employees employed by the St. Louis Cardinals for the following seasons, together with the start and end dates of seasonal employment, and the number of hours employed for each of the following painting "seasons": spring/pre-season 2018; fall/after-season 2018; and spring/pre-season 2019.
2. All documents considered in deciding which seasonal employees to hire for the fall 2018 and spring 2019 painting seasons.

Date for Submitting Evidence: To resolve this matter as expeditiously as possible, you must provide your evidence and position in this matter by **Wednesday February 13, 2019**. Electronic filing of position statements and documentary evidence through the Agency website is preferred but not required. To file electronically, go to **www.nlr.gov**, select **E-File Documents**, enter the **NLRB case number**, and follow the detailed instructions. If I have not received all your evidence by the due date or spoken with you and agreed to another date, it will be necessary for me to make my recommendations based upon the information available to me at that time.

Please contact me at your earliest convenience by telephone, (314)449-7481, or e-mail, bradley.fink@nlrb.gov, so that we can discuss how you would like to provide evidence and I can answer any questions you have with regard to the issues in this matter.

Very truly yours,

/s/
BRADLEY A. FINK
Field Attorney

From: [Kuntz, Harrison C.](#)
To: [Fink, Bradley A.](#)
Cc: [Stewart, Robert W. \(Bob\)](#)
Subject: RE: Request for Evidence Letter [ODNSS-UGL.049925.000005]
Date: Friday, February 1, 2019 10:01:19 AM
Attachments: [2018-19 Busch Stadium Painters Hours.pdf](#)

Brad,

Please accept this email as the Employer's response to Case No. 14-CA-234361. As your letter of January 30, 2019 explains, the charge alleges that the Employer violated Section 8(a)(1), (3), and (4) of the Act by failing to recall (b) (6), (b) (7)(C) for work in the fall of 2018 and in February 2019.

As you know, the General Counsel and the Employer litigated allegations regarding the Employer's early 2018 hiring of its painting crew in case number 14-CA-213219. The challenged hiring decisions in that case were the first hiring decisions made by then newly-appointed Painting (b) (6), (b) (7)(C) on behalf of the Employer. In that case, Administrative Law Judge Hon. Arthur Amchan found the Employer violated Section 8(a)(1) and (3) of the Act by allegedly failing to offer (or, regarding (b) (6), (b) (7)(C), to timely offer) work to four painters. The Employer's Exceptions to that ALJD are currently pending before the Board. The ALJD recommended reinstatement remedies for the other three painters, but not for (b) (6), (b) (7)(C), presumably because (b) (6) failed to return phone calls offering him work in February 2018.

As the attached hours summary demonstrates, since hiring the painting crew in early 2018, the Employer has continued to utilize that same crew. In fact, during fall 2018, the Employer narrowed down the number of crew members it needed to perform the available painting work. (b) (6), (b) (7)(C), (b) (6), (b) (7)(C), and (b) (6), (b) (7)(C) all worked for the Employer in the spring of 2018, but not the fall. The Employer added no new members to the crew. Similarly, when a small amount of work arose in February 2019, existing crew members (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) performed that work. Thus, the Employer's work assignments in the fall of 2018 and February 2019 were the lawful result of continuity amongst (b) (6), (b) (7)(C) existing crew, and not the consequence of any purportedly discriminatory motives.

In addition, the Employer notes that it maintains all defenses and legal positions advanced in connection with 14-CA-213219. Specifically, as explained more fully at hearing, in briefing, and in the other filings in that matter, the Employer asserts that: (1) the internal Union charges pursued by (b) (6), (b) (7)(C) and three others lost the protection of the Act because they pursued the charges with a proscribed Section 8(b)(1)(B) object; and (2) even incorrectly assuming *arguendo* that those charges were protected, and that a *prima facie* case could be established under *Wright Line*, 251 NLRB 1083 (1980), the Employer would have taken the same actions even absent animus toward any purportedly protected activities.

Please let us know if you have any questions or require any additional information.

Thank you,
Harrison

Harrison C. Kuntz | Ogletree, Deakins, Nash, Smoak & Stewart, P.C.

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harrison.kuntz@ogletree.com | www.ogletree.com | [Bio](#)

From: Fink, Bradley A. <Bradley.Fink@nrlb.gov>

Sent: Wednesday, January 30, 2019 11:08 AM

To: Kuntz, Harrison C. <Harrison.Kuntz@ogletreedeakins.com>

Subject: Request for Evidence Letter

Please find my request for evidence (EAJA) letter attached. I will call you shortly to discuss it.

Bradley Fink

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Painters Hours					
	Hours				
Painter	Spring 2018	Fall 2018	2018 total		Spring 2019
(b) (6), (b) (7)(C)	312	128	440		40
	91.75	80	171.75		
	300.5	152	452.5		
	290.5		290.5		
	346.5		346.5		
	147.25		147.25		
	251.33	152	403.33		
			1233		48
Totals	1739.83	512	3484.83		88
(b) (6), (b) (7)(C)			1958.5		113.5
Totals			1958.5		113.5
2018 Total Hours for all Painters			5443.33		201.5
Spring Start Date	Spring End Date	Fall Start Date	Fall End Date		
13-Feb	4-Apr	1-Oct	26-Oct		
8-Feb	23-Feb	1-Oct	16-Oct		
23-Feb	20-Apr	1-Oct	26-Oct		
19-Feb	4-Apr				
19-Feb	20-Apr				
14-Mar	4-Apr				
26-Feb	6-Apr	1-Oct	26-Oct		



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February 19, 2019

Harrison C. Kuntz, Attorney
Ogletree Deakins Nash Smoak & Stewart, PC
7700 Bonhomme Ave., Ste. 650
St. Louis, MO 63105-0030

Re: St. Louis Cardinals, LLC
Case 14-CA-234361

Dear Mr. Kuntz:

This is to advise you that I have approved the withdrawal of the charge in the above matter.

Very truly yours,

/S/

LEONARD J. PEREZ
Regional Director

cc:

(b) (6), (b) (7)(C)

Mike Whittle, General Counsel
St. Louis Cardinals, LLC
700 Clark Ave
Saint Louis, MO 63102-1727